

## § 295.5

## 20 CFR Ch. II (4–1–15 Edition)

former spouse and the employee of a determination that the decree or property settlement does or does not qualify as a decree or property settlement which will be honored pursuant to this part. This notice will be mailed to the most recent address of each party or representative of each party as shown in the Board's records pertaining to the employee. A copy of the decree or property settlement will be provided to the employee with this notice. The notice must state:

(1) The rationale for a determination that the decree or property settlement does not comply with this part; or

(2) The dollar amount or proportion of benefits which will be paid to the spouse or former spouse.

(d) *Withholding after notification.* (1) Where the General Counsel or his or her designee has notified the spouse or former spouse that a decree or property settlement will be honored under this part, but where the employee is not then entitled to any benefits subject to division under this part, the Director of Retirement Benefits will notate the Board's records to reflect both the amount of benefits awarded to the spouse or former spouse pursuant to the decree or property settlement and his or her current address. Where the employee is currently entitled to benefits subject to this part, and the spouse or former spouse has furnished all additional documentation required, the Director of Retirement Benefits will take action to withhold from the employee's monthly benefit the amount stated in the General Counsel's notice under paragraph (c) of this section that the Board will honor the decree or property settlement.

(2) Where the employee was not entitled to benefits subject to this part at the time of the notice by the General Counsel that the Board will honor the decree or property settlement, but the employee becomes so entitled at a later time, the Board will attempt to contact the spouse or former spouse at the most recent address shown in the Board's records pertaining to the employee. The notice will inform the spouse or former spouse that an annuity has been awarded, that the spouse or former spouse may, upon submission of all required documentation, receive

a portion of the annuity, and that the spouse or former spouse should contact the Board within three months from the date of the notice. The Director of Retirement Benefits will initiate withholding of the amount awarded to the spouse or former spouse from the employee's monthly benefit, and will continue to withhold this amount for three successive months; provided, that an initial annuity payment for a retroactive period shall count as one monthly benefit payment. If after the third month's payment has been withheld the Board has received no response from the spouse or former spouse, the amount withheld from the employee's benefit shall be paid to the employee, and the Board take no further action regarding the decree until the spouse or former spouse contacts the Board.

(3) Benefits withheld from the employee may not be paid to a spouse or former spouse until the spouse or former spouse has furnished all supporting documentation required pursuant to § 295.3 of this part. The Board shall allow a reasonable time, not to exceed three months from the date of the initial response from the spouse or former spouse, for the submission of all required documentation. If the documentation is not furnished within the time allowed, payment of the amounts withheld shall be made to the employee.

(4) Any payments made to the employee subsequent to the three-month notice period specified in paragraphs (d)(2) and (3) of this section, and prior to receipt of a response or required documentation from the spouse or former spouse, shall be considered properly paid to the employee and the Board shall have no further liability to the spouse or former spouse with respect to such amounts.

[51 FR 12845, Apr. 16, 1986, as amended at 73 FR 47046, Aug. 13, 2008]

### § 295.5 Limitations.

(a) *Employee benefit entitlement.* Payments will be made to a spouse or former spouse under this part only if the employee has been awarded an annuity under the Railroad Retirement Act. Payments to a spouse or former spouse shall be made only for months and from such amounts with respect to

which an annuity is payable to the employee, and, except as provided in paragraph (f)(4) of this section, shall be suspended or terminated for any month in which the annuity of the employee is suspended or terminated. No arrearage accrues to the spouse or former spouse with respect to any month for which the annuity of the employee is suspended or reduced as required under the Act.

(b) *Minimum amount.* The amount of payment to a spouse or former spouse may not be less than one dollar per month.

(c) *Prospective payment.* Payment to a spouse or former spouse may accrue no earlier than the later of the date of delivery, pursuant to §295.3 of this part, of a court decree or property settlement which will be honored under this part, or from October 1, 1983. The amount to be paid the spouse or former spouse under this part will not be increased to satisfy an arrearage due from the employee.

(d) *Payees.* Payment of an amount awarded to a spouse or former spouse by a court decree or property settlement will be made only to the spouse or former spouse except where the Board determines that another person shall be recognized to act on behalf of the spouse or former spouse as provided by part 266 of this chapter, relating to incompetence. Payment will not be made to the heirs, legatees, creditors or assignees of a spouse or former spouse, except that where an amount is payable to a spouse or former spouse pursuant to this part, but is unpaid at the death of that spouse or former spouse, the unpaid amount may be paid in accordance with §234.1 of this chapter, pertaining to employee annuities unpaid at death.

(e) *Net amount of benefits.* Notwithstanding the terms of the decree or property settlement, the amount of benefits payable to the employee which are subject to this part shall not include:

(1) Amounts deducted to satisfy a debt due the United States, including any amount withheld to recover erroneous payments under the Railroad Retirement Act, Railroad Unemployment Insurance Act, or any other acts administered by the Board; and

(2) Benefits which are waived pursuant to §243.6 of this chapter.

(f) *Termination.* Except as provided in paragraph (f)(4) of this section payments to a spouse or former spouse terminate on the earlier of—

(1) The date on which the employee annuity terminates;

(2) The date required by the court decree or property settlement or the law of the jurisdiction in which the court decree or property settlement was entered; or

(3) The last day of the month before the month in which the spouse or former spouse dies.

(4) If the employee dies on or after August 17, 2007, a former spouse who is receiving a portion of the employee's annuity pursuant to a court decree or property settlement compliant with this part may continue to receive a portion of the employee's tier II benefit component unless the court decree or property settlement requires such payment to terminate upon the death of the employee.

(g) *Priority.* In the event that the General Counsel receives more than one decree or property settlement from competing parties, benefits shall be available to satisfy the decrees or property settlements on a first come, first served basis governed by the date of receipt by the General Counsel. Conflicting decrees or property settlements received on the same day shall be accorded priority based upon the earliest date upon which the decree or property settlement became final.

[51 FR 12845, Apr. 16, 1986, as amended at 53 FR 35807, Sept. 15, 1988; 62 FR 67724, Dec. 30, 1997; 73 FR 47046, Aug. 13, 2008]

#### § 295.6 Disclosure of information.

(a) *Immunity from process.* The provision for the payment of benefits under this part pursuant to a court decree or property settlement shall not be construed to be a waiver of the sovereign immunity of the Railroad Retirement Board as an agency of the U.S. Government. The Board may not be joined in a suit for divorce, dissolution, annulment or legal separation, or otherwise subjected to the jurisdiction of any